

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**LEWIS SAUNDERS COLLINS,**

**Plaintiff,**

**v.**

**CIVIL NO. 1:19-MC-01  
(KLEEH)**

**UNITED STATES OF AMERICA,**

**Defendant.**

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 7] AND  
DISMISSING ACTION WITHOUT PREJUDICE**

---

On January 3, 2019, Plaintiff filed a motion for miscellaneous relief against the United States of America [ECF No. 1]. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. On May 16, 2019, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the action without prejudice for failure to prosecute [ECF No. 7].

The R&R informed Plaintiff that he had fourteen (14) days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned him that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by

COLLINS V. USA

1:19-MC-01

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 7] AND  
DISMISSING ACTION WITHOUT PREJUDICE**

---

the Circuit Court of Appeals.” Plaintiff accepted service of the R&R on May 21, 2019. To date, no objections have been filed.<sup>1</sup>

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 7]. This action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute and **STRICKEN** from the Court’s active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified

---

<sup>1</sup> A sealed set of documents was submitted with the Court on June 5, 2019 [ECF No. 9], but they do not contain any specific objections to the R&R.

COLLINS V. USA

1:19-MC-01

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 7] AND  
DISMISSING ACTION WITHOUT PREJUDICE**

---

mail, return receipt requested, at the last known address as shown  
on the docket.

DATED: January 12, 2023

Handwritten signature of Thomas S. Klee in black ink.

---

THOMAS S. KLEE, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA